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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/724,775 | 11/28/2000 | David C. Wilkins | DIGIP023 | 7663 |

7590 05/12/2005

Patent Lean Staff
EASTMAN KODAK COMPANY
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EXAMINER

POKRZYWA, JOSEPH R

ART UNIT PAPER NUMBER

2622

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/724,775

Applicant(s)

WILKINS ET AL.

Examiner

Joseph R. Pokrzywa

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

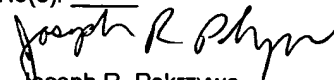
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: of the reasons discussed in the attached action.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).

13. ☐ Other: _____.


Joseph R. Pokrzywa
Primary Examiner
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DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/25/05 have been fully considered but they are not persuasive.
2. In response to applicant's arguments regarding the rejection of independent claims 1 and 11, which were cited in the Office action dated 4/14/05 as being anticipated by Parulski *et al.* (U.S. Patent Number 6,573,927), whereby applicant argues that Parulski fails to teach of providing distributed multimedia assets. As was discussed in the Office action dated 4/14/05, Parulski can be reasonably interpreted as teaching each of the limitations found in claims 1-18.

Using a reasonable, and broad interpretation of a "distributed multimedia asset", Parulski can be seen as teaching a "distributed multimedia asset" with the digital image combined with selected backgrounds and text that are then distributed to a service provider. As was discussed in the Office action dated 4/14/05, and hereinbelow repeated, Parulski teaches of digital images stored in a camera that can be combined with additional data (selected background, text, etc.) to generate a "creative image", as seen in Fig. 3. These images are transferred or distributed to a service provider 14, as read in column 4, lines 9-58, so they can be printed or stored. Thus, one can reasonably interpret the term "distributed multimedia assets" as these transmitted and/or distributed digital images. Additionally, dependent claim 6 further defines that "the multimedia asset is a digital image". Thus, Parulski is seen to teach of synchronizing transmitted digital images, therein being equivalent to the required "distributed multimedia assets".

Continuing, applicant argues that Parulski does not teach of having multiple stored images at various locations, and that Parulski could not appreciate the problem to which the present invention is directed. The examiner notes that the above argued feature is not expressly claimed. While the examiner agrees with applicant, in that there are differences in the invention discussed in the current specification and what Parulski teaches, as the claims are currently worded, one can *reasonably interpret* Parulski as disclosing the claimed features.

Regarding the feature of updating other distributable multi-media assets, as was also discussed in the Office action dated 4/14/05, is not expressly claimed, as the claims are currently written. Particularly, claim 1 currently requires modifying a particular one of the set of distributed multimedia assets, and automatically synchronizing others of the set of distributed multimedia assets based upon the modifying step.

Parulski can be interpreted as teaching modifying a particular one of the set of distributed multimedia assets (column 3, lines 5 through 62, wherein “creative backgrounds” and text messages can be selected and added to digital images, therein modifying the multimedia asset) and automatically synchronizing others of the set of distributed multimedia assets based upon the modifying step (column 4, lines 10 through 58, and column 6, lines 1 through 44, wherein other multimedia assets can be modified using the selected settings of background images and text, as read in column 6, lines 24-26, wherein the output is a synchronized image, having the original image data, synchronized with a creative background and text information).

Regarding the feature of the edit list, which is found in dependent claims 2 and 12, as once again was discussed in the Office action dated 4/14/05, Parulski can be interpreted as teaching of generating an update edit list corresponding to the modifying step in column 3, lines

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34 through 62, whereby the “utilization” file, which is further seen in Appendix I and II in columns 6-9, wherein the utilization file includes the “details of the order information...that identifies the order and includes pointers to the image files that store the images required to “fulfill” the order”, as read in column 6, lines 39-44. Thus, Parulski can be interpreted as providing an edit list that contains all the necessary information about how to perform reconstruction of the transmitted or distributed multimedia asset.

3. Therefore, the rejection of *claims 1-18*, as cited in the Office action dated 4/14/05, under 35 U.S.C. 102(e) as being anticipated by Parulski *et al.*, is maintained.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Pokrzywa whose telephone number is (571) 272-7410. The examiner can normally be reached on Monday-Friday, 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Edward L. Coles can be reached on (571) 272-7402. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph R. Pokrzywa
Primary Examiner
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